



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
BROADBAND OFFICE COMMUNICA-)
TIONS, INC. FOR AUTHORITY TO)
PROVIDE FACILITIES-BASED AND)
RESOLD LOCAL EXCHANGE AND INTRA-))
STATE TOLL TELECOMMUNICATIONS)
SERVICES THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE99110859

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 19, 1999, BroadBand Office Communications, Inc. (Petitioner or BBOC) filed a petition with the Board of Public Utilities (Board) requesting authority to provide resold and facilities-based local exchange and intrastate toll services throughout the State of New Jersey. Petitioner has stated that the financial information contained in its petition and letters of December 22, 1999 and January 24, 2000 is highly proprietary and confidential and has requested to have it protected from public disclosure. Petitioner submitted responses to interrogatories by letters dated December 22, 1999 and February 23, 2000 and a response to a Staff questionnaire on January 24, 2000.

According to the petition, BBOC is a Delaware Corporation with principal offices at 2070 Chain Bridge Road, Suite G-99, Vienna, Virginia 22182. Petition at 3. BBOC is a wholly owned subsidiary of BroadBand office, Inc., which is also a Delaware Corporation with offices at 2070 Chain Bridge Road, Vienne, VA 22182. Petitioner submitted copies of its Articles of Incorporation, its Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to operate as a foreign corporation. *Id.* at 3, Exhibit 1 and Letter dated November 19, 1999 at Exhibit 1.

According to the petition, BBOC was formed to provide all forms of telecommunications services, including resold and facilities-based local exchange services, throughout the State to tenants of certain commercial buildings in order to fulfill their business needs from a single source. *Id.* at 3. Petitioner advised that BBOC and its affiliates are in the process of obtaining authority to provide telecommunications services in Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Michigan Missouri, New York, North Carolina, Ohio, Tennessee, Texas, Virginia and Washington. BBOC has not been denied authority to provide telecommunications service, in

any State. In addition, BBOC stated that it has never filed for bankruptcy and has never been the subject of any federal or state investigation. Id. at 4.

BBOC advised in its petition that it will request the negotiation of an interconnection agreement with Bell Atlantic-New Jersey, Inc. (BA-NJ) in the near future and will provide the Board with a copy of its interconnection agreement with BA-NJ upon its completion. Ibid. BBOC will provide the Board with its proposed tariff following negotiation of agreements with BA-NJ. Id. at 7.

In its petition, Petitioner advised that it seeks authority to provide facilities-based and resold local exchange and intrastate toll telecommunications services to business customers throughout New Jersey. Petition at 1. According to the petition, BBOC intends to provide its services utilizing a combination of its own facilities and the resold facilities of other carriers. Petitioner stated that it intends to provide a range of facilities-based local exchange and intrastate toll services, which may include, but will not be limited to the following: (1) voice telecommunications, (2) data communications, (3) Internet and e. commerce, and (4) LAN networking services. Petition at 5.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3, which requires that its books and records be maintained in accordance with the Uniform System of Accounts (USOA). Petitioner advised that its books and records will be maintained in accordance with Generally Accepted Accounting Principles (GAAP). Id. at 7-8. Petitioner also requested a waiver pursuant to N.J.A.C. 14:1-5.15(a), which provides for the filing of petitions for authority to keep books and records outside the State of New Jersey. Petitioner requested that all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey be kept at Petitioner's corporate offices in Vienna, Virginia. Ibid. Petitioner stated that a requirement of storage of its books and records in the State of New Jersey would place an undue financial burden on Petitioner as it competes with other local exchange carriers in the State of New Jersey. Petitioner also stated it will produce its books and records at such time and place within New Jersey as the Board may designate, and will pay any reasonable expenses for investigation or examination of the records. Id. at 8. In addition, BBOC requested a waiver of the requirement to provide exchange area maps since BBOC intends to use the same exchange boundaries as the incumbent local exchange carriers. Ibid.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Id. at 5-6. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that it intends to invest in the telecommunications infrastructure in the State of New Jersey, provide employment opportunities for New Jersey residents that its presence in the State will stimulate economic development. Ibid.

With regard to its managerial qualifications, BBOC stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Id. at 6. Petitioner submitted the professional biographies of its key personnel which, according to BBOC, show that its senior management team is well qualified to execute its business plan, having extensive managerial and technical experience in the telecommunications industry. Petition at 6, Exhibit 2.

Petitioner stated that it has access to the financing capital necessary to conduct the telecommunications operations of the requested services. BBOC advised that it will rely on the

financial resources of its parent company, BroadBand Office, Inc., to provide the initial capital investment and funding for its New Jersey operations. Petition at 7. In support of its financial qualifications, Petitioner submitted, under separate cover and under seal, the most recent financial statements of its parent which includes a balance sheet and statement of operations from its inception through October 31, 1999 and pro forma statements for 1999 through 2002. Letter dated December 22, 1999. Petitioner asserted that this information contains extremely sensitive and strategic information that could be used by competitors to determine market share, revenue and other information damaging to BBOC in the marketplace. Petitioner also stated that it has used its best efforts to keep and maintain such information confidential and due to the sensitive nature of this information has requested the Board to limit access to such information.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.(b)(1) and (3).

Therefore, having reviewed BBOC's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and intrastate toll telecommunications services in New Jersey subject to approval of its tariffs and provision of two years of its own pro forma financial statements. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided. Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, pursuant to N.J.A.C. 14:1-1.2(b) 1 and N.J.A.C. 14:1-5.15(a), from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's

request for the exemptions from maintaining its books and records in New Jersey and under the USOA. In addition, with regard to the Petitioner's request for a waiver of N.J.A.C. 14:1-11.3(h) regarding provision of exchange area maps, the Board APPROVES Petitioner's request for the exemption from providing exchange area maps. With regard to Petitioner's financial information as submitted in its letters of December 22, 1999 and January 24, 2000, the Board FINDS that the Petitioner has shown good cause, pursuant to N.J.A.C. 1:1-14.1 that this information merits protection from disclosure in order to prevent competitive harm to the Petitioner. Therefore, the Board DIRECTS that the financial information contained in the letters dated December 22, 1999 and January 24, 2000 be kept under seal.

DATED: 7/6/00

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
EDWARD D. BESLOW
ACTING SECRETARY